



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 22, 1996

Andrew D. Sandroni, Esq.
O'Gorman & Sandroni
8050 Watson Road, Suite 240
St. Louis, Missouri 63119

Dear Mr. Sandroni:

This is in response to your letter dated October 22, 1996, regarding the application by Union Planters Corporation ("UPC") and Capital Bancorporation, Inc., both of Memphis, Tennessee, to acquire all of the voting shares of Financial Bancshares, Inc., St. Louis, Missouri ("Financial"), that was approved by the Federal Reserve Bank of St. Louis ("Reserve Bank") on October 16, 1996. You request on behalf of your client, Mr. Don Deters, that the Board review or delay the Reserve Bank's approval of the proposal. See 12 C.F.R. 265.3(b).

During the processing of the application, you submitted comments relating to Mr. Deters's pending lawsuit against Financial and its subsidiary bank, First Financial Bank of St. Louis ("Bank"), which seeks more than \$1 million in compensatory damages as well as punitive damages.^{1/} The Reserve Bank carefully reviewed the contentions in this private employment dispute in light of all the facts of record, including confidential reports of examination assessing the financial and managerial resources of UPC, the acquiring banking organization, and the fact that the lawsuit remains in the early stages of litigation. In addition, the Reserve Bank specifically reviewed the potential effect of a judgment for Mr. Deters in light of the financial resources of UPC. The Reserve Bank also noted that the Federal Reserve System retains sufficient supervisory authority over UPC and its subsidiaries to take appropriate action if Mr. Deters's allegations in the lawsuit can be substantiated.

^{1/} Mr. Deters maintains that Financial and Bank fraudulently induced him to accept employment with Bank, and then wrongfully discharged him.

You also contend in your request for review that approval of the proposal may compromise Mr. Deters's ability to obtain copies of the books and records that are relevant to his lawsuit. Accordingly, you request that the Board delay approval of the proposal until you complete discovery in the lawsuit or settle the case. In reviewing applications under section 3 of the Bank Holding Company ("BHC") Act, the Board is limited to considering the specific factors set forth in the BHC Act, and may not take into account considerations that do not relate to those factors. See Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973). The potential impact that the approval of an application may have on private litigants is not related to a factor that the Board may consider under section 3 of the BHC Act. Moreover, the courts appear to have sufficient authority to provide your client with an appropriate remedy if documents are not properly produced in his lawsuit.

Your request has been presented to the members of the Board to give them an opportunity to request a review of the Reserve Bank's action. In light of the record in this case, and for the reasons discussed above, no member of the Board has requested review, modification or delay of the Reserve Bank's action. Accordingly, your request that the Board review or delay the Reserve Bank's action on the application is hereby denied.

Very truly yours,

A handwritten signature in dark ink, appearing to read "William W. Wiles", with a stylized flourish at the end.

William W. Wiles
Secretary of the Board